



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCB/148176

PRELIMINARY RECITALS

Pursuant to a petition filed March 18, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on April 25, 2013, at Kenosha, Wisconsin.

The issue for determination is whether there is a means of backdating BadgerCare+ eligibility to provide BadgerCare+/Medicaid payment for medical bills incurred by Petitioner.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Karen Mayer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is currently a resident of Illinois but was a resident of Wisconsin through July 2012.
2. Petitioner filed this appeal seeking Wisconsin Medicaid payment for bills for medical services from the period of May 1, 2013 through June 2012.

3. Petitioner was sent a Notice of Decision dated December 14, 2011 that informed Petitioner that she was not eligible for Wisconsin Medicaid benefits. The notice also informed her that she could become eligible if she met the deductible in the amount of \$663.06 for the period from November 1, 2011 through April 30, 2012.
4. Petitioner contacted the agency in April 2012 to indicate that she had medical bills but had not incurred bills for which she was definitively liable (her private insurance company was billed) during the period from November 1, 2011 through April 30, 2012 in the amount sufficient to meet the \$663.06 deductible. Thus Petitioner did not become eligible for Medicaid/BadgerCare+ benefits.
5. Petitioner did not reapply for Medicaid/Medicare plus benefits after April 30, 2012.
6. By June 2012 Petitioner incurred medical expenses of more than \$7000.00 with the largest portion of those bills being from the birth of her child in late June 2012.
7. In July 2012 Petitioner moved to the State of Illinois.
8. In early 2013 Petitioner became aware of her liability for \$7559.00 in medical bills as of the end of June 2012. She notified the agency in early 2013 but was not eligible at that time because of income and because she was not a resident of Wisconsin.

DISCUSSION

In 2011 the income limit for adult BadgerCare+ eligibility was 200% of the Federal Poverty Level (FPL) but for pregnant women with income in excess of 300% of the FPL BadgerCare+ eligibility could be obtained upon meeting a deductible. *See BadgerCare+ Eligibility Handbook (BEH), §§16.1 and 17.2, respectively.*

If a BadgerCare+ case opens because a deductible is met, a person is notified that a review is required to establish a new deductible period. If a person does not become eligible by meeting a deductible there is no review as there is no open case. *See BEH, §26.1.1.*

If a person applies for BadgerCare+ eligibility can, potentially, be backdated to the first day of the third month prior to the month of application. *See BEH, §25.8.1.*

Here Petitioner was notified in late 2011 that she had a deductible in the amount of \$663.06 for the period from November 1, 2011 through April 30, 2012. That deductible was not met and Petitioner was never certified eligible for BadgerCare+ Medicaid. As Petitioner did not have an open case there was no review scheduled. There was no further contact or request for eligibility from Petitioner until early 2013. At that point there was no ability for the BadgerCare+ program to backdate Petitioner's application to June 2012.

Finally, the Division of Hearings and Appeals does not possess equitable powers. *See, e.g., Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977).* The Division of Hearings and Appeals must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. The Division of Hearings and Appeals cannot create solutions outside of the regulatory framework. Thus, here, the Division of Hearings and Appeals has no authority to ignore the law and policy governing the BadgerCare+ program in order the eligibility for BadgerCare+ coverage for June 2012.

CONCLUSIONS OF LAW

That Petitioner was not BadgerCare+ eligible at any point during the time period involved here and though she requested that eligibility in early 2013 there is no legal or policy mechanism for backdating eligibility as requested by Petitioner.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

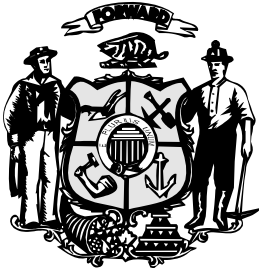
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 6th day of June, 2013

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 6, 2013.

Kenosha County Human Service Department
Division of Health Care Access and Accountability
EMCAPO